

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA :

- V - :

ROBERTO ORTIZ :

Defendant. :

-----X

AFFIRMATION

07 Cr. 366 (JSR)

I, **ROBERTO ORTIZ**, hereby affirm under penalties of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am the defendant in the above captioned case. I make this affirmation in support of the instant motion to suppress physical evidence and statements on the ground that there was an illegal search and seizure pursuant to the Fourth Amendment of the United States Constitution and that the evidence seized and the statements made following this illegal search and seizure must be suppressed pursuant to the Fourth and Fifth Amendment.

2. On or about April 15, 2007, I came to New York from Rhode Island with Hector Duran.

3. Later that night I was in the Bronx and left a building in the vicinity of 1065 Boston Post Road in order to retrieve a piece of luggage from the automobile of Hector Duran.

4. Mr. Duran's automobile is a black Volvo with Rhode Island license plates.

5. After retrieving the luggage from the automobile, I began walking to a nearby building with the luggage in my possession.

6. When I began to enter the building, a law enforcement officer appeared and displayed his shield. He ordered me to "stop."

7. At that point it was clear to me that he would not let me leave the area or proceed any further. I thought that I was being arrested. I don't recall if he had a gun in his hand.

8. After initially stopping as ordered and submitting to his authority, I became frightened and started to run away.

9. I ran approximately two blocks before I was apprehended, and taken into custody by being placed under arrest. I was not questioned at all prior to my arrest.

10. When I ran, I left the luggage which had been in my possession, at the location where I was initially stopped.

WHEREFORE, it is respectfully requested that this Court enter an order suppressing the physical evidence seized and my subsequent statements on the ground that they were obtained following an arrest without probable cause in violation of my constitutional rights pursuant to the Fourth and Fifth Amendments to the United States Constitution, or such other relief as the Court may deem just and proper.

I declare under penalty of perjury that the foregoing is true and accurate.

Dated: June , 2007
Queens, New York

ROBERTO ORTIZ